

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KENNETH L. VONEIDA,	:	CIVIL ACTION NO. 1:10-CV-2572
Plaintiff	:	
	:	
v.	:	(Judge Conner)
	:	
	:	
KEVIN STOEHR, et al.,	:	
Defendants	:	

ORDER

AND NOW, this 29th day of September, 2011, upon consideration of the Report and Recommendation of United States Magistrate Judge J. Andrew Smyser (Doc. 33), recommending that the Rule 12(b)(6) motions of defendants Stoeher, Spainer, Consiglio, Marsico, Taylor, Allegrini, Lower Paxton Township, Unknown Number of Lower Paxton Township Police Officers, Terz, Smith, and Holder to dismiss be granted, and that the complaint also be dismissed as to all other defendants, and, following an independent review of the record and noting that plaintiff filed objections¹ to the report on September 5, 2011 (Doc. 34), and the court finding Judge Smyser's analysis to be thorough and well-reasoned, and the court finding plaintiff's objections to be without merit and squarely addressed by Judge Smyser's report (Doc. 33), it is hereby ORDERED that:

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

1. The Report and Recommendation of Magistrate Judge Smyser (Doc. 33) are ADOPTED with respect to the Rule 12(b)(6) motions (Docs. 15, 16, 23 and 28) of defendants Stoeher, Spainer, Consiglio, Marsico, Taylor, Allegrini, Lower Paxton Township, Unknown Number of Lower Paxton Township Police Officers, Terz, Smith, and Holder, and the motions are hereby GRANTED.
2. The above-captioned case is REMANDED to Magistrate Judge Smyser for further proceedings on the issue of service as to the remaining defendants in light of the plaintiff's assertion of proper service. See Doc. 34, p. 2-3.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge